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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/686,773	10/11/2000	Timothy L. Racette	99556466	5174

26565 7590 11/04/2005

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EXAMINER

CARRILLO, BIBI SHARIDAN

ART UNIT	PAPER NUMBER
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1746

DATE MAILED: 11/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/686,773

Applicant(s)

RACETTE ET AL.

Examiner

Sharidan Carrillo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07262005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-102 and 106-109 is/are pending in the application.
- 4a) Of the above claim(s) 3-58,61,68-70,74-87,89-102 and 106-109 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2,59-60,62-67,71-73 and 88 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 2-102 and 106-109 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. On page 24, applicant cites that the single disclosed species includes claims 2, 59-60, 62-67, 68-69, 71-73, 88 and 103-104. This ^{is} ~~is~~ incorrect. ^{see 11/1/05} In the restriction election, filed 4/14/2005, applicant specifically stated that claims 68-69 were non-elected claims. Additionally, the Amendment filed August 26, 2005, claims 103-104 have been cancelled. Therefore, the claims remaining for examination include claims 2, 59-60, 62-67, 68-69, 71-73 and 88.

This application contains claims 3-58, 61, 68-70, 74-87, 89-102, and 106-109 drawn to an invention nonelected with traverse in Paper filed 8/26/2005. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

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3. Claims 2, and 63-65 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 10-11, and 13 of U.S. Patent No. 6755871 in view of DeYoung et al. (6148645).

Although the conflicting claims of Damaso are not identical, they are not patentably distinct from each other because the claims are directed to cleaning textiles with an organic solvent of dipropylene glycol ether, followed by removal with a pressurized fluid of liquid carbon dioxide. Damaso fails to teach the organic solvent comprising less than 50% water. DeYoung teaches low water content detergent formulations containing the organic co-solvent of dipropylene glycol monobutyl ether (col. 8, lines 1-17) for purposes of being immiscible with liquid carbon dioxide in order to promote turbulent conditions effective for cleaning of textiles. It would have been obvious to a person of ordinary skill in the art to modify the method of Damaso, to include low water content detergent formulations, as taught by DeYoung, for purposes of being immiscible with liquid carbon dioxide in order to promote turbulent conditions effective for cleaning of textiles.

4. Claims 2, 60, and 63-64 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-2, 7-10, and 12 of U.S. Patent No. 6736859 in view of DeYoung et al. (6148645).

Although the conflicting claims of Racette et al. are not identical, they are not patentably distinct from each other because the claims are directed to cleaning textiles with an organic solvent of dipropylene glycol ether, followed by removal with a pressurized fluid of liquid carbon dioxide. Racette et al. fail to teach the organic solvent

comprising less than 50% water. DeYoung teaches low water content detergent formulations containing the organic co-solvent of dipropylene glycol monobutyl ether (col. 8, lines 1-17) for purposes of being immiscible with liquid carbon dioxide in order to promote turbulent conditions effective for cleaning of textiles. It would have been obvious to a person of ordinary skill in the art to modify the method of Racette et al., to include low water content detergent formulations, as taught by DeYoung, for purposes of being immiscible with liquid carbon dioxide in order to promote turbulent conditions effective for cleaning of textiles.

5. Claims 2, 60, and 63-65 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 10-11, and 13 of U.S. Patent No. 6355072 in view of DeYoung et al. (6148645).

Although the conflicting claims of Racette et al. are not identical, they are not patentably distinct from each other because the claims are directed to cleaning textiles with an organic solvent of dipropylene glycol ether, followed by removal with a pressurized fluid of liquid carbon dioxide. Racette fails to teach the organic solvent comprising less than 50% water. DeYoung teaches low water content detergent formulations containing the organic co-solvent of dipropylene glycol monobutyl ether (col. 8, lines 1-17) for purposes of being immiscible with liquid carbon dioxide in order to promote turbulent conditions effective for cleaning of textiles. It would have been obvious to a person of ordinary skill in the art to modify the method of Racette, to include low water content detergent formulations, as taught by DeYoung, for purposes

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of being immiscible with liquid carbon dioxide in order to promote turbulent conditions effective for cleaning of textiles.

6. Claims 2, 60, and 63-65 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-2, 8-13, 15-16, 21-26 of copending Application No. 10/797516 in view of DeYoung et al. (6148645).

Although the conflicting claims of Racette et al. are not identical, they are not patentably distinct from each other because the claims are directed to cleaning textiles with an organic solvent of dipropylene glycol ether, followed by removal with a pressurized fluid of liquid carbon dioxide. Racette fails to teach the organic solvent comprising less than 50% water. DeYoung teaches low water content detergent formulations containing the organic co-solvent of dipropylene glycol monobutyl ether (col. 8, lines 1-17) for purposes of being immiscible with liquid carbon dioxide in order to promote turbulent conditions effective for cleaning of textiles. It would have been obvious to a person of ordinary skill in the art to modify the method of Racette, to include low water content detergent formulations, as taught by DeYoung, for purposes of being immiscible with liquid carbon dioxide in order to promote turbulent conditions effective for cleaning of textiles.

This is a provisional obviousness-type double patenting rejection.

Response to Arguments

7. The rejection of the claims under 112, second paragraph is withdrawn in view of the newly amended claims.

8. The rejections of the claims as being anticipated and obvious over DeYoung in view of secondary references are withdrawn. The examiner agrees with applicant's position that DeYoung teaches the detergent composition in the presence of carbon dioxide. Specifically, DeYoung fails to teach removing contaminants from the substrate in the presence of at least one organic solvent and in the absence of pressurized liquid carbon dioxide solvent.

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharidan Carrillo whose telephone number is 571-272-1297. The examiner can normally be reached on Monday-Friday, 6:00a.m-2:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Barr can be reached on 571-272-1414. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sharidan Carrillo
Primary Examiner
Art Unit 1746

bsc



SHARIDAN CARRILLO
PRIMARY EXAMINER